

REMARKS

The acceptance of the drawings filed on December 22, 2004 is noted with appreciation. The acknowledgment of the claim for foreign priority under 35 U.S.C. §119 is noted with appreciation.

Claims 1-3, 5-9 and 11-14 are currently pending in the application.

Claim 1 has been rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent 5,797,089 to Nguyen. Claims 1-3 and 6 have been rejected under 35 U.S.C. §103 as being unpatentable over Japanese Patent 11-308163 to Atsushi in view of U.S. Patent 5,950,139 to Korycan. Claim 5 has been rejected under 35 U.S.C. §103 as being unpatentable over Atsushi in view of Korycan and further in view of U.S. Patent 6,262,686 to Delarminat and further in view of U.S. Patent 6,167,288 to Ishihara. Claims 7-9 and 12 have been rejected under 35 U.S.C. §103 as being unpatentable over Atsushi in view of Korycan and further in view of U.S. Patent 6,625,478 to Nonogaki. Claim 11 has been rejected under 35 U.S.C. §103 as being unpatentable over Atsushi in view of Korycan and further in view of Nonogaki and further in view of Delarminat and further in view of Ishihara. Claim 13 has been rejected under 35 U.S.C. §103 as being unpatentable over Atsushi in view of Korycan and further in view of Delarminat. Lastly, claim 14 has been rejected under 35 U.S.C. §103 as being unpatentable over Atsushi in view of Korycan and further in view of Nonogaki and further in view of Delarminat. Each of these rejections are traversed in view of the remarks below.

The arguments submitted in the response filed on December 22, 2004 are incorporated herein by reference.

The Examiner, in his response to Applicant's arguments submitted on December 22, 2004 (see pages 11-12 of the Office Action), appears to be suggesting that the positioning of the functioning mode-indicator as disclosed in claims 1 and 7 of the present invention is anticipated by Nguyen and obvious over various combinations of the referenced prior art. However, it is respectfully submitted that the Examiner has misread that portion of claims 1 and 7 and has, accordingly, misapplied the teachings found in the referenced prior art.

Particularly, the portions of claims 1 and 7 that are the subject of the Examiner's response

at pages 11-12 of the Office Action read as follows: “wherein said functioning mode-indicator is situated at a position which is easily seen by persons other than said user.” At no point does the Applicant limit claims 1 and 7 by requiring that the functioning mode-indicator can be seen by others only when the lamp is lighted. The purpose of functioning mode-indicator is to indicate whether the portable telephone is in either communicative or noncommunicative mode. Contrary to the teachings in the prior art cited by the Examiner, in the preferred embodiment of the invention the lamp of the functioning mode-indicator is lighted when the portable telephone is in noncommunicative mode only (see particularly page 15, lines 2-8 of the specification and the requirement in claim 1 that the “controlling means which stop said radio unit from functioning and lights said lamp of said functioning mode-indicator”). However, the functioning mode-indicator is visible to the user and others regardless of whether the lamp is lit. The lighting of the lamp only signifies that the portable telephone is active, but cannot communicate with other PDAs or telephones through a telephone network (i.e., the noncommunicative mode).

In Nguyen, the light indicators 27, 28 can only be seen when the personal communications terminal is in the open position (see column 4, lines 16-17, and Figure 2 of Nguyen). The Examiner has acknowledged that the light indicators in Nguyen can only be seen when the device is opened (see paragraph 8(a) of the Office Action). Furthermore, when the light indicators 27, 28 in Nguyen are illuminated, it signifies that either the PDA or the telephone is “energized” and can, therefore, be used (see column 4, lines 7-22, in Nguyen). At no point does Nguyen teach or suggest the light indicators to illuminate when either the telephone or PDA function of the device is in a noncommunicative mode. For the aforementioned reasons, it is submitted that Nguyen does not anticipate the present invention and, accordingly, the applicant respectfully requests the rejection under 35 U.S.C. §102 be withdrawn.

With regard to the Examiner’s rejection under 35 U.S.C. §103, and the references cited to therein, none of the cited prior art teach or suggest a device where an external lamp can be used to notify others that a portable telephone is not being used for communication. The Examiner acknowledges that Atsushi “fails to teach indicating the non-communicative mode by lighting a lamp and easily seen by others” (see page 3, paragraph 2.1, in the Office Action) and looks to

Korycan, Delarminat, Nonogaki and/or Ishihara to supply this admitted deficiency. However, none of these references teach notifying others of the portable telephone's noncommunicative mode by lighting a lamp that is easily seen by person's other than the user.

The multi-colored LED's of the Korycan telephone, as shown in Figures 2-5, are placed at the bottom edge of the telephone in order to be "more readily perceived by the user because it is within the user's peripheral vision" (see column 2, lines 16-55 of Korycan). Furthermore, the purpose of the multi-colored LED's are display the signal strength of the telephone's reception (see column 2, lines 16-55 of Korycan).

The LED of the Delarminat radio communication transceiver, as shown in Figure 4, is embedded inside the device (see column 2, lines 33-48, of Delarminat). Because the Delarminat LED is inside the device, it cannot be easily seen by others. Furthermore, Delarminat neither teaches nor suggest using an LED lamp for informing others that the device is in a noncommunicative mode.

Nonogaki teaches a multifunction wireless telephone whereby the user can determine the functioning mode by depressing a particular key (see abstract of Nonogaki). However, unlike the present invention, Nonogaki does not teach notifying the user in any manner, or others around the user, of the telephone's noncommunicative mode by way of lighting an lamp.

Ishihara teaches a portable telephone that has an exterior LED lamp situated at the bottom of the telephone that is used to indicate whether the phone is "within bounds" or "out of bounds" (see column 1, line 52 through column 2, line 17, and Figures 3 and 4, of Ishihara). Ishihara fails to teach or suggest the lighting of the lamp to indicate the telephone's noncommunicative mode.

For the aforementioned reasons, it is respectfully submitted that one of ordinary skill in the art would not find it obvious to create the present invention set forth in claims 1-3, 5-9 and 11-14 by consulting any combination of the cited references. To do so would constitute an impermissible hindsight reconstruction since the purpose and operation of the cited references is completely different, and none of the reference teach or suggest a device where an external lamp can be used to notify others that a portable telephone is not being used for communication.

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In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1-3, 5-9 and 11-14 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson).

Respectfully submitted,


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